



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Barry E. Hill, Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: November 22, 2006

RE: "Environmental Justice in the News" for the Week Ending November 24, 2006

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This memorandum summarizes select environmental justice news actions for the period beginning October 20, 2006 through the week ending November 24, 2006. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **"Adams UN Conference Trip Draws EJ Criticism Over Potential Conflict," Inside Cal/EPA (Nov. 17, 2006).** According to the article, California Environmental Protection Agency's ("Cal/EPA") Secretary Linda Adams recent trip to Nairobi, Kenya has resulted in criticism from some environmental justice groups. The trip, which was undertaken to "build worldwide partnerships as part of efforts to implement the State's new climate change law, AB 32," was criticized because the Climate Group, a Britain-based organization that supports flexible cap-and trade programs, paid for it. One environmental justice activist who opposes such credit trading programs stated that sponsorship from the Climate Group for the trip was "outrageous" and "crossed the line" because Cal/EPA is "in the midst of making decisions for a major regulatory program, and [it is] accepting money from people who have a huge interest in the outcome."

- **“Democratic Leaders Will Raise Profile of Emerging Contaminants,” Defense Environment Alert (Nov. 14, 2006).** According to the article, the results of the recent elections have positioned leaders of the Democratic Party “in line to lead key environment committees and subcommittees in the House and Senate,” which raises the profile of numerous “toxic issues that affect many military and industry cleanup programs.” Specifically, perchlorate, will likely gain further precedence, because it represents an important issue in California, which is the home state of Senator Barbara Boxer (D-CA), who will likely become Chair of the Environment and Public Works Committee, and Representative Hilda Solis, who will likely become the Chair of the House Energy and Commerce Hazardous Materials Subcommittee. Congresswoman Solis has been particularly critical of the perchlorate cleanup target levels that the United States Department of Defense (“DOD”) and the United States Environmental Protection Agency (“EPA”) use. Perchlorate is prevalent in the drinking water supplies in California, and Congresswoman Solis “considers perchlorate contamination an environmental justice issue.”
- **“Massachusetts Department of Environmental Protection Penalizes Realty Trust \$37,000 for Failing to Maintain Its Required Cleanup System at 1283 Hyde Park Avenue,” US States News (Nov. 14, 2006).** The article set forth a press release from the Massachusetts Department of Environmental Protection (“DEP”) concerning DEP’s imposition of a \$37,000 fine on River Street Realty Trust for “waste site cleanup violations, namely the failure to adequately maintain a soil vapor recovery system.” The property is located within an environmental justice (“EJ”) area. The press release noted that the State’s “EJ areas encompass only a small portion of the land (less than 5%), but contain many industrial properties, and are home to a large percentage of the State’s population (nearly 29%). Enforcing environmental regulations within these areas is a priority for [DEP] as EJ neighborhoods also host – or are in close proximity to – many contaminated and abandoned sites, and large sources of air emissions.”
- **“Environmental Activists Meet with New EPA Officer They Fear Loss of Protection Programs,” Seattle Post-Intelligencer (Nov. 11, 2006) at B3.** According to the article, environmental justices met with Elin Miller, the new Regional Administrator for EPA’s Region 10, on November 9, 2006 to discuss the Region’s decision to move four people working in its environmental justice office to separate offices. The reorganization, which budget cuts prompted, would also eliminate the Director’s position in the environmental justice office. The environmental justice groups believe that the environmental justice office “has been demoted, and these [environmental justice] communities have been demoted and marginalized for too long.” The groups called for the reinstatement of the environmental justice office. In response, Regional Administrator Miller articulated that she needed to “personally pay particular attention to

focusing environmental justice with the right stature, visibility, and independence.” She also noted that she intend to invite the environmental justice groups back to continue the discussion on the changes to the program.

- **“New EPA Chief Takes on Sound Superfund Cleanups Are Also on Her Agenda,” Seattle Post-Intelligencer (Nov. 9, 2006) at B2.** The article presents an interview with Elin Miller, the new Regional Administrator for EPA’s Region 10. Among the issues discussed were the proposed changes to the Region’s environmental justice program, which would “involve moving four people who now work on this issue into different departments.” In response, Ms. Miller articulated her recognition that a “program as important as environmental justice [needs] to be embraced and embedded in the organization.” In addition, she stated that the environmental justice program will not be deemphasized; rather, an opportunity exists “for greater emphasis on environmental justice with this new organization.”
- **“Youth Sizing Up Toxic Threat in East Palo Alto,” Inside Bay Area (CA Nov. 8, 2006).** According to the article, the Youth United For Community Action (“YUCA”), a group of activists composed of young people based in East Palo Alto, California, is attempting to address the issue of environmental racism, since “[f]or decades . . . East Palo Alto has suffered disproportionately, living with poor air quality and hosting dangerous industrial facilities such as Romic [Environmental Technologies (“Romic”)].” YUCA’s efforts include the release of a video, entitled “The Explosive Truth,” which claims “an unsubstantiated link between Romic and disease in East Palo Alto.” YUCA has continuously maintained that a link exists between Romic’s emissions and the City’s high cancer and asthma rates.
- **“Lawmakers Seen Proposing Major Water Board Reorganization,” Inside Cal/EPA (Nov. 3, 2006).** According to the article, lawmakers in California will likely pursue legislation next year to overhaul the Water Resources Control Board at the regional and state levels, due to statewide “inconsistency.” The reorganization of the boards will likely address complaints about such major programs as stormwater, septic tanks, and irrigated lands. Included among the issues that spurred the call to reorganize the boards is diversity. Environmental justice advocates have stated that “the boards are not diverse enough” and would like future appointments to the boards to better reflect the community in general.
- **“Cap-and-Trade Opposition in California Foreshadows Federal CO2 Fight,” Inside EPA (Nov. 3, 2006). See also “South Coast Officials Fear GHG Law May Weaken Pollutant Programs,” Inside Cal/EPA (Nov. 3, 2006); “Activists, Lawmakers Blast Schwarzenegger’s GHG Order,” Clean Air Report (Nov. 2, 2006); “Activists Cite Trading**

Failures in Denouncing Governor's GHG," Inside Cal/EPA (Oct. 27, 2006); "California Dispute May Shape Nationwide GHG Emissions Trading," Inside Green Business (Oct. 25, 2006); "Climate Shifts on Global-Warming Law; A Senate Leader Accuses Gov.

Schwarzenegger of Undermining the Landmark Legislation," Los Angeles Times (Oct. 24, 2006) at C1; "Lawmakers, Activists Eye Countermeasures to Governor's GHG," Inside Cal/EPA (Oct. 20, 2006). The articles discuss the impacts and implications of California Governor Arnold Schwarzenegger's Executive Order that implements AB 32, the State's new climate change law. Under AB 32, California will reduce greenhouse gas ("GHG") emissions. One article noted that implementation of AB 32 may lead the South Coast Air District to "divert key staff from important criteria pollutant programs aimed at protecting public health." However, the article noted that environmental justice advocates disagree with this notion, since they argue that "districts do not have any statutory role and therefore should not suffer any distractions from traditional pollution regulation." Another article asserted that AB 32's credit trading provisions represent a continuing source of discontent among environmental justice advocates, who articulated "[a]ir pollution markets in California have been a dismal failure, delivering little progress in actually reducing emissions and further exacerbating pollution problems in communities already adversely impacted by air pollution." One environmental justice activist noted that several scenarios under the GHG emission-trading scheme could "increase criteria and air toxic pollution in poor communities." Similarly, Democrats and their environmental allies "raised environmental justice concerns about the potential impact of emissions trading, arguing that older power plants in low-income minority neighborhoods may choose to purchase emission credits rather than reduce air pollutants to comply with the law."

- **"Historic Preservation Just Wishful Thinking For Blacks; Some Can Relate to Loss of Cultural Sites to Rise in Social Problems," Pittsburgh Post-Gazette (Nov. 3, 2006) at B1.** According to the article, Vernice Miller-Travis, the Executive Director of Groundwork USA, a network of environmental businesses in minority communities, spoke at the Omni William Penn Hotel on November 2, 2006 on the environmental justice movement. Specifically, she articulated her view that despite "evidence that hazardous waste sites are disproportionately placed in black communities and black landmarks are rarely protected by the sway of preservation politics, too many blacks fail to see the relevance of her passion." In addition, she discussed one project in which research was performed on the correlation of zip codes and the location of incinerators, sewage treatment plants, and superfund sites. The research indicated "an almost one-to-one correlation between where minorities lived and where these sites were."

- **“EPA Strengthens Environmental Justice,” Seattle Post-Intelligencer (Oct. 31, 2006).** The article set forth an editorial from Ron Kreizenbeck, who served as the Acting Regional Administrator for EPA’s Region 10. Mr. Kreizenbeck articulated EPA’s intent “to strengthen the Region’s environmental justice program,” in response to an editorial that stated otherwise. Specifically, Mr. Kreizenbeck set forth his office’s intent to integrate its environmental justice program with other programs that work on similar community-based efforts. He noted that no plans existed to “reduce the number of staff dedicated to working on environmental justice;” rather, the Region wanted to link the environmental justice program closer to the communities the Region serves. He pointed out that the Region conducted environmental justice training sessions for more than 150 staff members over the past two years and that “[a]lready, 30 staff people from a variety of programs in the Region are involved in significant environmental justice-related projects or work.” Mr. Kreizenbeck concluded that the Region stands behind its “unwavering commitment that environmental justice communities get the attention, resources, and protection their families deserve. [The Region’s] ultimate goal: to make environmental justice a central organizing principle for protecting human health and the environment in the Pacific Northwest.”
- **“EPA: Protestors Rally Against Agency Cutbacks,” Greenwire (Oct. 31, 2006).** According to the article, approximately two dozen protestors rallied in front of EPA’s regional office in Seattle “to denounce cuts to an environmental protection program for minorities and the poor.” The protestors wanted to speak out “against a decision to dismantle the Region’s Office of Civil Rights and Environmental Justice.” According to the article, two of the office’s three staff employees will undertake other responsibilities, while the remaining employee will continue to work full time at the office. The protest coincided with the first day on the job for the new Regional Administrator, Elin Miller, who was previously an executive at Dow Chemical.
- **“Landfill Lottery,” News and Observer (Oct. 30, 2006) at A8.** According to the editorial, the placement of several giant landfills in North Carolina are “more than twice as likely to be located in places with substantial minority populations than in those that are predominantly white . . . [and in] communities where average home prices are under \$100,000.” Although the editorial noted that such actions may constitute environmental racism, it articulates that such categorization may not be easy because “the reality is more complex.” Specifically, the editorial asserts that poor people and landfill developers seek the same remote areas, “home prices, rent, and land are cheap.” The editorial concluded by stating that [i]ncreased emphasis on conservation, recycling, and alternative means of waste disposal hold far more promise for North Carolina’s future than digging more holes and dumping more trash in the boondocks.”

- **“Environmental Groups Sue SCAQMD Over Emission Credits,” Electric Power Daily (Oct. 30, 2006) at 1.** According to the article, the Natural Resources Defense Council, Communities for a Better Environment, Coalition for a Clean Environment, and California Communities Against Toxics filed a lawsuit on October 20, 2006 in the Los Angeles Superior Court against California’s South Coast Air Quality Management District over two rules that “it approved in September that allow 4,600 MW of new power plants under construction or in development to buy emission reduction credits from a priority reserves account that would otherwise be restricted to essential public services.” The groups are against the use of market-based emission reduction credits, because they create “severe environmental justice impacts” such as increasing greenhouse gas and toxic emission in low-income neighborhoods. The new power plants are scheduled to be opened in industrial areas near low-income residential communities.
- **“Department of Environmental Conservation Announces More Than \$220,000 for Environmental Justice,” U.S. States News (Oct. 26, 2006).** According to the article, the New York State Department of Environmental Conservation announced the “first new State grants awarded under a program called the Environmental Justice Community Impact Research Grant Program [(“Program”)].” The Program will provide “more than \$224,000 for 10 community projects designed to address exposure of communities to multiple environmental harms and risks.” The Program, which was initially announced in May 2006, “was developed to assist local groups and organizations with projects that focus on addressing environmental and/or related public health concerns in their communities. The Program is geared to expand the knowledge and understanding within communities of how to mitigate exposure to environmental impacts and improve quality of life.”
- **“Sewage Plant Foes Renew Complaint; Group Wants EPA to Reconsider Civil Rights Claim Against Midland Ave. Project,” Post-Standard (N.Y. Oct. 25, 2006) at B3.** According to the article, the Partnership for Onondaga Creek (“Partnership”) has renewed its request for EPA “to consider whether construction of the Midland Avenue sewage treatment plant adversely affects residents of Syracuse’s South Side.” Previously, in a complaint filed in April 2004, the Partnership claimed that “construction of the sewage treatment and storage plant amounted to environmental racism. The plant is being built in the middle of a mostly black residential neighborhood at Midland Avenue and Oxford and Blaine streets.” EPA rejected the complaint one year later, which was a decision that the Partnership questioned.
- **“Tribes Demand Environmental Justice in Air Quality Standards,” Targeted News Service (Oct. 24, 2006).** According to the article, the National Tribal Environmental Council, National Tribal Caucus, and other

individual tribes (collectively “Tribes”) met with EPA to discuss their concerns with EPA’s proposed revisions to the National Ambient Air Quality Standards for particulate matter. The Tribes believe that “EPA’s plan to measure coarse particle pollution only in areas with populations of 100,000 or more [means] that rural and tribal areas would not be protected,” which violated “principles of environmental justice and federal trust responsibility to the Tribes.” Despite these concerns, EPA will not change this part of the regulation, since the “‘evidence of health effects associated with non-urban ambient mixes of coarse particles is limited and inconclusive; in general, the evidence does not demonstrate that community-level exposures in non-urban areas are associated with either the existence or absence of adverse health effects.’” The revisions will take effect on December 18, 2006.

- **“University Study Links Race, Income with N.C. Landfill Locations,” Associated Press State & Local Wire (Oct. 24, 2006).** According to the article, North Carolina’s Joint Select Committee on Environmental Justice (“Committee”) received a presentation on a study from the University of North Carolina at Chapel Hill on October 23, 2006 that found that “North Carolina communities with significant minority populations are more than twice as likely to be located near landfills than overwhelmingly white areas.” Specifically, the study determined that “permitted solid waste facilities are more prevalent in nonwhite communities than white communities.” The Committee, which was created by a law that instituted a one-year moratorium on permitting new landfills in the State, “is expected to recommend by February how to ensure human health concerns and citizen equity are protected when landfills are considered.”
- **“National Commission on Environmental Justice on the Gulf Coast Takes Testimony from Organizations, Activists, Officials; Experts and Activists Describe Environmental Injustice,” U.S. Newswire (Oct. 23, 2006).** According to the article, the National Commission on Environmental Justice (“NCEJ”) heard testimony on October 23, 2006 from government officials and residents on “environmental disparities in low-income and minority communities struggling to rebuild after Hurricane Katrina.” The residents testified on the “myriad of disparities that exist” due to fear that “government will fail to incorporate environmental justice into redevelopment plans.” According to the article, environmental hazards disproportionately burden low-income and minority Gulf Coast residents, which Hurricane Katrina exacerbated.
- **“Activists Demand Cleanup of Dickson Pollution,” Tennessean (Oct. 19, 2006) at 1B; See also “14 Dickson Sites May Be Toxic,” Tennessean (Oct. 18, 2006) at 1A.** According to the articles, members of the Tennessee Coalition for Environmental Justice called for the clean-up of the “‘obvious case of environmental injustice’ they believe led to pollution in the rural, mostly black neighborhood near the closed Dickson

County Landfill.” The group called for the clean-up at an informational meeting on October 18, 2006, which discussed ways to clean the chemicals in the groundwater and dig up waste before it contributes to further contamination. A recent study determined that “[p]ossible contamination from a chemical that can cause nerve, liver, and lung damage has been pinpointed in at least 14 sites around the old Dickson County landfill.” According to a representative of the environmental justice group, the “landfill was built in the middle of a poor, disenfranchised and mostly black neighborhood in the 1960s. When dumping ceased in 1999, the Eno Road transfer station was built on the same site, further emphasizing the residents’ perception of being subjected to injustice.”

- **“EPA Budget Reduction Could Expose More Minorities, Poor to Pollution, Agency Wants to Reorganize Program’s Structure,” Seattle Post-Intelligencer (Oct. 16, 2006) at A1; See also “EPA: Budget Cuts Could Increase Minority, Poor Exposure to Pollution,” Greenwire (Oct. 16, 2006); “Environment: Toxic Budgeting,” Seattle Post-Intelligencer (Oct. 17, 2006).** The articles discuss EPA Region 10’s proposed reassignment of personnel from its environmental justice program to other offices, as well as the elimination of the environmental justice director’s position. The proposed changes, which stem from budget cuts, have angered critics who thought more was needed from the Region’s environmental justice office before the cuts. In response, the Region assert that environmental justice needs will continue to be met, as the changes merely reassigned resources and a comparable amount of manpower would be dedicated to environmental justice.
- **“Rep. Serrano Releases New Study Data Tying South Bronx Childhood Asthma to Highways, Dirty Air,” U.S. Fed News (Oct. 16, 2006).** The article set forth a press release from Congressman Jose E. Serrano (D-N.Y.), who discussed findings of a New York University Study (“Study”) that linked childhood asthma and pollution in the South Bronx. The Study indicated that transportation and traffic pollution represented major causes of high asthma rates for children in the South Bronx. Specifically, the Study found that “on school days experiencing elevated traffic pollution, the children experienced both diminished lung function and a roughly doubling of asthma-related wheeze symptoms.” In calling for better protection for children from polluted air, Representative Serrano vowed to “continue to fight for environmental justice in the South Bronx.” Representative Serrano hopes to develop a comprehensive plan to address the problem.
- **“Tohono O’odham Protest Proposed Toxic Dump; La Choya Hazardous Waste Facility Would be on Sacred Grounds,” Tuscon Citizen (AZ Oct. 13, 2006) at 11A.** According to the article, a protest was held outside the Mexican Consulate in Tuscon, Arizona on October

12, 2006. The protest was held to voice concern with a proposed chemical waste dump at the La Choya Hazardous Waste Facility, which is 8 miles from Quitovac, which represents one of “the most sacred sites for Tohono O’odham.” The proposed project “would bring up to 45,000 tons of industrial waste from northwest Mexico to the Sonoran desert annually.” However, residents believe that the proposal “smacked of environmental racism,” because “[i]ndigenous land are the first place people look to dump things on.” The residents cite safety concerns with the project and point to similar projects where high incidents of cancer were reported.

2. **Recent Litigation.**

- No noteworthy **Recent Litigation** was identified for this period.

3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

A. **Federal Congressional Bills and Matters.**

- No noteworthy “**Federal Congressional Bills and Matters**” were identified for this time period.
- No noteworthy “*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*” were identified for this time period.
- **Federal Register Notices.**

— **DOT, Environmental Impact Statement: City of Salem, Polk, and Marion Counties, OR, 71 Fed. Reg. 66,217 (Nov. 13, 2006).** The Federal Highway Administration (“FHWA”) of the United States Department of Transportation (“DOT”) announced its intent that it will prepare an Environmental Impact Statement (“EIS”) “for solutions to improve mobility across the Willamette River in the City of Salem and Marion and Polk Counties, Oregon.” Included among the potential areas of impacts that will be considered is environmental justice.

— **DOI, Preparation of an Environmental Impact Statement for Issuance of an Incidental Take Permit Associated with a Habitat Conservation Plan for Pacific Gas & Electric Company’s Operation, Maintenance, and Minor New Construction Activities in the San Francisco Bay Area, California, 71 Fed. Reg. 65,123 (Nov. 7, 2006).** The United States Fish and Wildlife Service (“FWS”) of the Department of the

Interior (“DOI”) announced its intent to gather information to prepare a joint Environmental Impact Statement/Environmental Impact Report (“EIS/EIR”), with the California Department of Fish and Game and Pacific Gas & Electric Company (“PG&E”), on the PG&E San Francisco Bay Area Operations, Maintenance, and Construction Program (“Plan”). PG&E will request a permit to authorize a take of listed species that may occur due to implementation of the Plan. Written comments are requested by December 7, 2006. Among the items that the EIS/EIR will look for in considering the proposed action and alternatives is environmental justice.

- **DOT, Preparation of an Environmental Impact Statement for the Dumbarton Rail Corridor Project in the Southern Portion of the San Francisco Bay Area, CA, 71 Fed. Reg. 64,330 (Nov. 1, 2006).** DOT’s Federal Transit Administration announced its intent to prepare an EIS/EIR for the Dumbarton Rail Corridor Project (“Project”), which represents an “approximately 21-mile commuter rail extension on existing rail alignment to provide commuter rail service between the Peninsula and the East Bay across the southern part of the San Francisco Bay.” The notice sought to alert interested parties on the EIS/EIR. Written comments are due by November 30, 2006. Included among areas of investigation of the EIS/EIR is environmental justice.

- **EPA, Chlorflurenol Risk Assessment, Notice of Availability, and Risk Reduction Options, 71 Fed. Reg. 64,262 (Nov. 1, 2006).** EPA announced the availability of its risk assessments and related documents for the herbicidal pesticide chlorflurenol. In soliciting public comment on these documents by January 2, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision (“RED”) for chlorflurenol through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. EPA’s current action is Phase 3 of the 4-phase process. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to chlorflurenol, compared to the general population.”

- **DOD, Notice of Availability and Notice of Public Hearing of the Draft Environmental Impact Statement for an Annex to the Fort Rosecrans National Cemetery at Marine Corps Air Stations Miramar, San Diego, CA, 71 Fed. Reg. 63,754 (Oct. 31, 2006).** The Department of the Navy (“Navy”) of the United States Department of Defense (“DOD”) announced the availability of a Draft Environmental Impact Statement (“DEIS”) that “evaluates

the potential environmental effects of the land use agreement between the [Navy] and the Veterans Affairs' National Cemetery Administration for the proposed annex to the existing Fort Rosecrans National Cemetery at Point Loma in San Diego, CA. The DEIS also evaluates the potential effects of construction and operation of the proposed cemetery annex." The action in this case will provide needed burial space on federal land for military veterans in San Diego. Comments on the DEIS, which will address environmental justice issues, are due by December 11, 2006.

- **EPA, National Ambient Air Quality Standards for Particulate Matter, 71 Fed. Reg. 61,114 (Oct. 17, 2006).** EPA announced that it will revise its primary and secondary national ambient air quality standards ("NAAQS") for particulate matter ("PM") "to provide increased protection of public health and welfare." The action will take effect on December 18, 2006. With regard to Executive Order 12898, EPA noted that its rule "is not expected to have disproportionate negative impacts on minority or low-income populations." Some commenters had expressed "concerns that EPA had failed to adequately assess the environmental justice implications of its proposed decisions, and that the proposed revisions to both the fine particle and coarse particle standards would violate the principles of environmental justice." In response, EPA articulated its belief that implications of the newly strengthened PM standards "will reduce health risks precisely in the areas subject to the highest fine particle concentrations."

B. State Congressional Bills and Matters.

- No noteworthy "*State Congressional Bills and Matters*" were identified for this time period.
- State Regulatory Alerts.
 - **New York, Notices of Adoption, 2006 Reg. LEXIS 48,764 (Oct. 11, 2006).** The notice updated and clarified the Power Authority of the State of New York ("Authority") rules under the State Environmental Quality Review Act ("SEQRA"). Specifically, the notice addressed a letter that the Authority received on June 12, 2006 from Assemblyman Ruben Diaz, Jr. (D-District 75), who opined that the Authority failed to incorporate principles of environmental justice into SEQRA rules." The letter states that the Authority should, at a minimum, "adopt additional changes to its SEQRA rules by amending 21 NYCRR Part 4651 to commit the Power Authority to following all aspects of DEC's environmental justice policy when the Authority is the lead agency." The Authority considered the recommendation, but declined to make

the changes that Assemblyman Diaz suggested because: (1) the Authority employs methods that evaluate environmental justice in a manner “at least as stringent as those followed by DEC;” (2) DEC’s environmental justice policy is not a regulation and “only applies in instances in which DEC is issuing a permit or issuing a major modification to a permit in certain specific regulatory areas;” and (3) in situations where the Authority is the lead agency, DEC would be involved and would “certainly evaluate the Authority’s efforts to ensure that its environmental justice insights would be incorporated into the Authority’s final work product and findings.”